



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health

- ☒ Preproposal Statement of Inquiry was filed as WSR ; or
☒ Expedited Rule Making--Proposed notice was filed as WSR ; or
☒ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR
☐ Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

WAC 246-260-9901 - Water Recreation Facilities--Fees and WAC 246-262-990 - Recreational Water Contact Facilities--Fees

Hearing location(s):

Department of Health
Town Center 2
111 Israel Rd. SE
Room 158
Tumwater, WA 98501

Submit written comments to:

Name: Gary Fraser

Address:

Office of Environmental Health and Safety
PO Box 47825
Olympia, WA 98504-7825

Web site: <http://www3.doh.wa.gov/policyreview/>

fax: (360) 236-2261 by (date) 07/11/2006

Date: July 11, 2006 Time: 1:30 pm

Date of intended adoption: 07/14/2006

(Note: This is NOT the effective date)

Assistance for persons with disabilities: Contact

Gary Fraser by 07/05/2006

TTY (800) 833-6388 or () 711

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposed rules revise the fee structure for review of construction permits for water recreation facilities such as swimming pools, spa pools, wading pools and spray pools, as well as for recreational water park facilities such as water slides, wave pools and other innovative design features. The fee increases apply to the plan review process for proposed new facilities and to facilities that are proposing alterations, renovations, or modifications. The fee increases are intended to recover 100% of the cost of conducting the construction permit process. During the 2005 legislative session, the legislature authorized the department to increase fees beyond the fiscal growth factor in ESSB 6090 (Chapter 518, Section 221(1) Laws of 2005).

Reasons supporting proposal:

The proposed fees provide the revenue necessary for DOH to conduct the plan review program. This program is essential to public health protection by assuring that proposed facilities are designed in accordance with the standards set forth in either chapter 246-260 WAC or in chapter 246-262 WAC as well as industry standards. Although some local health jurisdictions use their own staff for plan review in accordance with local regulations, most counties rely on the Department of Health to conduct the plan review function.

Statutory authority for adoption:

RCW 70.90.150

Statute being implemented:

chapter 70.90 RCW

Is rule necessary because of a:

- Federal Law? ☐ Yes ☒ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No

If yes, CITATION:

DATE 06-05-06

NAME (type or print)

Mary C. Selecky

SIGNATURE

TITLE

Secretary

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JUN 7 2006

TIME

9:57

WSR

06-12-110

AM
PM

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization)

Department of Health

☐ Private☐ Public☒ Governmental**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting	Larry Kirchner	20435 72nd Ave S., Kent WA 98302	(253) 395-6754
Implementation	Gary Fraser	PO Box 47825, Olympia WA 98504-7825	(360)236-3073
Enforcement	Gary Fraser	PO Box 47825, Olympia WA 98504-7825	(360)236-3073

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

- ☒
- Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone:

fax:

e-mail:

- ☒
- No. Explain why no statement was prepared.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025(3), a small business economic impact statement is not required for rules that set or adjust fees pursuant to legislative standards.

Is a cost-benefit analysis required under RCW 34.05.328?

- ☒
- Yes. A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone:

fax:

e-mail:

- ☒
- No. Please explain:

A cost-benefit analysis is not required under RCW 34.05.328, RCW 34.05.328 (5)(b)(vi), "significant rule analysis" does not apply to rules that set or adjust fees pursuant to legislative standards, as this proposal does.

AMENDATORY SECTION (Amending WSR 03-14-146, filed 7/2/03, effective 8/2/03)

WAC 246-260-9901 Fees. (1) CONSTRUCTION PERMIT FEES. The department establishes the fees listed in Table 990.1 for construction permits for carrying out its duties under WAC ((246-260-030)) 246-260-021.

(a) The applicant must submit the base fee to the department prior to plan review initiation.

(b) Hourly charges for plan review will be charged regardless of whether the construction permit is issued or not.

(c) The department will issue the construction permit once full payment has been received.

(d) The applicant must pay the costs of a safety engineer to review plans when department determines need per WAC 246-260-021(4).

**TABLE 990.1
CONSTRUCTION PERMIT FEES**

TYPE OF FACILITY	CONSTRUCTION PERMIT PLAN REVIEW FEES
I. Swimming Pools	
((a) 125,000) <u>100,000</u> gallons or more in volume	((\$568.00)) <u>\$ 800.00 plus \$ 99/hr. for all hours of review time greater than 8 hours</u>
((b) Greater than 75,000 gallons and less than 125,000 gallons)	<u>\$ 339.00</u>
(c) Greater than 40,000 gallons and less than 75,000 gallons	<u>\$ 223.00</u>
(d) Less than 40,000 gallons	<u>\$ 170.00</u>)
II. <u>Swimming Pools less than 100,000 gallons, Spa Pools, and Recirculating Spray Pools</u>	((\$170.00)) <u>\$ 400.00 plus \$ 99/hr. for all hours of review time greater than 4 hours</u>
III. <u>Wading Pools and Nonrecirculating Spray Pools</u>	((\$111.00)) <u>\$ 200.00 plus \$ 99/hr. for all hours of review time greater than 2 hours</u>
((IV. <u>Spray Pools</u>	<u>\$ 84.00</u>))
((V.)) Alterations, renovations, or modifications to existing swimming, spa, wading or spray pools	((; not to exceed two-thirds of new construction permit fees, or \$68/hour (whichever is less))) <u>\$ 100.00 plus \$ 99/hr. for all hours of review time greater than 1 hour.</u>
IV. The fees for multiple pools at the same location will be based upon the highest fee for one facility and two thirds of the fee for each additional facility. For example: The fee for a 100,000 gallon swimming pool, a 60,000 gallon swimming pool, and a spa pool will be: $\$339 + \$149 + \$113 = \601 . The fees for a small 30,000 gallon swimming pool and a spa pool will be $\$170 + \$113 = \$283$.)	

(2) OPERATING PERMIT FEES The department establishes the fees listed in Table 990.2 for operating permits for carrying out its

duties under WAC ((246-260-040)) 246-260-101.

TABLE 990.2
FEE SCHEDULE
OPERATING PERMITS
Type + Number of Facilities

	Single Swim Pool	Single Spa Pool	Single Wading Pool	Spray Pool or Pools	Each Additional Swim, Spa, or Wading Pool
Operating Permit 0-6 month	\$ 291.00	\$ 255.00	\$ 211.00	\$ 105.00	\$ 63.00
Operating Permit 6-12 months	\$ 477.00	\$ 424.00	\$ 371.00	\$ 159.00	\$ 84.00

(3) Other Terms and Conditions:

- ((+1)) (a) The department may charge an additional fee of \$87 plus associated laboratory costs for any inspections beyond those provided under the annual operating permit when necessary due to violations of such items as (a) noncompliance with water quality standards, and (b) failure to comply with operational requirements for health and safety.
- ((+2)) (b) The department may charge an alternate annual fee for an operating permit based on direct and indirect costs associated with issuance of the permit when arrangements are made with local health jurisdictions to administer all or portions of the duties associated with the operating permit. Except, that the fee for this operating permit cannot exceed the cost established by the previous portions of this regulation, but the fee may be less.
- ((+3)) (c) During the first year of development of the operating permit and for new pool facilities built hereafter, or pools temporarily closed (significant period of several months) and reopened, there are provisions for prorating the costs for the operating permits.
- ((+4)) (d) A reduction in fees, up to but not exceeding thirty percent, may be granted by the department when a facility operator can demonstrate a satisfactory level of training in pool safety, water quality, maintenance and operations. The department will develop criteria for ((such)) these fee reductions within six months of the adoption of this regulation.
- ((+5)) (e) For limited use facilities requiring operating permits which are serving less than fifteen living

units, the operating permit shall be fifty percent of the fee. However, the department may charge a reinspection fee((s-when)) if necessary((, will be charged as noted in condition (1))) under (a) of other terms and conditions.

((+6+)) (f) Fees for multiple facilities at the same physical location shall have a maximum FEE CAP as follows: Seasonal (0-6 months) WRF's: \$774 NOTE: The third and subsequent pool/spa at the same location will be charged \$51 for each ((such)) additional pool/spa.

Year around (>6 months) WRF's \$1032 NOTE: The third and subsequent pool/spa at the same physical location will be charged \$67 for each ((such)) additional pool/spa.

(4) Examples of Fees Charged:

((+1+)) (a) If more than one pool at a facility and one is a year-round pool and another is a seasonal pool--year-round pool is base cost, seasonal pool is charged at additional fee charge. For example: Year-round spa = \$424 plus seasonal swimming pool is \$63 = \$487 total operating permits.

((+2+)) (b) If a single swimming pool and a single spa pool is used at the facility, the fee schedule will include fees as noted. For a 0-6 month permit, the primary fee for the single swimming would be \$291 and the spa pool would be viewed as the second pool at the facility and would have a fee of \$63, total operating permit fees would be \$354.

((+3+)) (c) If there are 12 pools/spas at a single year-around pool facility, the FEE CAP would apply and the maximum fee of \$1032 would be charged. (\$477 base fee, \$84 for first additional pool/spa, \$67 for the remaining ten year-around pools/spas (10 x \$67 = \$670)) Total fee before fee cap = \$477 + \$84 + \$670 = \$1231. After FEE CAP the total fee = \$1032. If approved training were credited to this facility for the maximum 30% discount, the 30% would be applied to the FEE CAP fee of \$1032; \$1032 - 30% = \$723.

AMENDATORY SECTION (Amending WSR 03-14-146, filed 7/2/03, effective 8/2/03)

WAC 246-262-990 Fees. (1) The fee for plan review of a new recreational water contact facility ~~((containing a single attraction))~~ shall be ~~((two))~~ four hundred ~~((six))~~ dollars base fee plus an hourly rate of ninety-nine dollars for all hours of review beyond four hours plus the safety engineer reviewer's cost as billed.

(a) The base fee must be provided to the department prior to initiating plan review.

(b) Hourly fees for plan review will be charged regardless of whether the plans are approved or not.

(c) The construction permit will not be issued until after full payment is received.

~~((2))~~ ~~((The fee for plan review of a new recreational water contact facility containing more than one attraction shall be two hundred six dollars plus the cost of the safety engineer reviewer's cost as billed plus seventy-seven dollars for each attraction.~~

~~((3))~~ The fee for review of plans for alterations or modifications of an existing recreational water contact facility shall be the ~~((total of direct and indirect costs, not to exceed one-half of the fee for review of a new project))~~ hourly rate of ninety-nine dollars.

~~((4))~~ (3) The annual fee for an operating permit for a recreational water contact facility containing one attraction shall be one hundred eighty dollars.

~~((5))~~ (4) The annual fee for an operating permit for a recreational water contact facility containing more than one attraction shall be one hundred eighty dollars for the first attraction plus fifty-one dollars for each additional attraction up to a maximum fee of three hundred thirty-five dollars.

~~((6))~~ (5) The department may charge an additional fee of fifty-one dollars plus associated laboratory costs for inspections beyond those provided under the annual operating permit when necessary due to violations of such items as:

(a) Noncompliance with water quality standards; and

(b) Failure to comply with operational requirements for health and safety.